

REMARKS

Claims 1-24 are pending in this application, of which claims 1-9 and 19-24 have been withdrawn from consideration in light of Applicants' response to the election of species requirement.

Applicants appreciate the Examiner's prompt indication that claims 16-18 define allowable subject matter. Applicants' responses to the double patenting issues raised in the Office Action are set forth below.

Obviousness-Type Double Patenting Rejections

Applicants respectfully request reconsideration of the rejection of claims 10-12 and 14 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of Application No. 10/826,860 (published as US 2004/0263882 A1, now US 7,345,787 B2). As will be explained in more detail below, claim 1 of the '787 patent does not raise a *prima facie* case of nonstatutory obviousness-type double patenting against the subject matter defined in claims 10-12 and 14.

The method defined in independent claim 10 includes, among other processes:

- 1) separately optimizing the ink quantity lattice points and the lower-dimensional color lattice points; and
- 2) after the optimization, *maintaining* either of the ink quantity lattice points and the lower-dimensional color lattice points at optimized lattice points and *readjusting* the other optimized lattice points.

In the method of claim 10, the lattice points are separately optimized at first. After the optimizing process is completed, the "readjusting" process is carried out while the "maintaining" process is being carried out.

On the other hand, the method defined in claim 1 of the '787 patent includes, among other processes:

1) optimizing the arrangement of lattice points in the device-independent color space,
and

2) after the optimization, associating the amount of each ink corresponding to the lattice points in the low-dimensional color space in the optimized state with the lattice points in the low-dimensional color space.

In the method of claim 1 of the '787 patent, the "associating" process is done while referencing the original correspondence defining data. The "optimizing" process is carried out while varying the lattice point position information in the low-dimensional color space so as to improve the rating of the smoothness evaluation function. In particular, the method of claim 1 of the '787 patent optimizes one of the lattice points in the device-independent color space. After the optimizing process is carried out, the associating process is carried out and thereby determines the amount of each ink corresponding to the lattice points in the low-dimensional color space.

In view of the foregoing differences, Applicants respectfully submit that the method of claim 10 is not merely an obvious variation of the method defined in claim 1 of the '787 patent. Moreover, as the '787 patent was filed six months after the date on which the subject application was filed (the application underlying the '787 patent was filed on April 15, 2004, whereas the subject application was filed on October 15, 2003), Applicants respectfully submit that the use of a two-way obviousness determination is appropriate to assess whether the nonstatutory obviousness-type double patenting rejection is appropriate (see MPEP § 804). In support of the rejection, however, the Examiner has relied on just a one-way obviousness determination. As such, the Examiner has failed to establish a *prima facie* case of nonstatutory obviousness-type double patenting against claim 10.

Accordingly, for at least the foregoing reasons, the rejection of claim 10 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of the

'787 patent is improper and should be withdrawn. The rejection of claims 11, 12, and 14, each of which depends from claim 10, is likewise improper for at least the same reasons set forth above regarding claim 10.

Applicants respectfully request reconsideration of the rejection of claims 13 and 15 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of Application No. 10/826,860 (published as US 2004/0263882 A1, now US 7,345,787 B2) in view of *Zandian* (US 6,081,653). Each of claims 13 and 15 ultimately depends from claim 10. Thus, the nonstatutory obviousness-type double patenting rejection of claims 13 and 15 is improper for at least the same reasons set forth above with regard to claim 10.

Further, the method of claim 13 calculates the maximum amount of ink adhering. During the calculating process, the method adds up the product of a weighting factor and each component value of the ink quantity lattice points. The weighting factor has its value of "0" or "1" defined for each ink quantity component value. For example, when the flag is defined as "101000" for the ink set comprising CcMmYK, the method compares the ink amount calculated in the manner described above with the duty limited value for C + M.

In contrast, the *Zandian* reference uses a weighting factor for an error diffusion calculation. In this error diffusion calculation, weighting factors having a value of "0" or "1" might be used. However, the calculation does not add up the product of a weighting factor defined for each ink quantity component value and each component value of the ink quantity lattice points.

During the process of the error diffusion calculation of *Zandian*, the calculation is processed by color independently, thus the process would not sum up the product for different color values. On the other hand, the claimed subject matter sums up the product of different color values which are controlled by the weighting factors for each ink quantity component.

Thus, the claimed subject matter is patentably distinct from claim 1 of the '787 patent in view of the *Zandian* reference.

Accordingly, for at least the foregoing reasons, the rejection of claims 13 and 15 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of the '787 patent in view of *Zandian* is improper and should be withdrawn.

Conclusion

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of claims 10-18, and submit that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 749-6902. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. YOKOP006).

Respectfully submitted,
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